

Sheepy Neighbourhood Plan Review (Submission Plan dated October 2021)

As you are aware I have been appointed to conduct the Examination of the Sheepy Neighbourhood Plan Review. In order that I may progress the Examination I would be grateful for the Qualifying Body's response to the initial enquiries below; the local authority may also have comments.

My purpose here is to better understand the intention behind the policy content from the authors and it is not to invite new content or policies that will not have been subjected to the public consultation process. In particular I need to be sure that the Plan policies meet the obligation to "contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" (NPPF para 16). It is an expectation of Neighbourhood Plans that they should address the issues that are identified through community consultation, set within the context of higher level planning policies. There is no prescribed content and no requirement that the robustness of proposals should be tested to the extent prescribed for Local Plans. Where there has been a failure by the Qualifying Body to address an issue in the round, leading to an inadequate statement of policy, it is part of my role wherever possible to see that the community's intent is sustained in an appropriately modified wording for the policy.

In order to ensure transparency with the conduct of the Examination a copy of these queries is being sent to the Local Planning Authority with a request that the exchange of emails be published on the webpage relating to the Neighbourhood Plan Review alongside the representations received during the Regulation 16 public consultation. Where relevant, I have included below matters raised during that formal consultation.

Modifications

There are three types of modification which can be made to a Neighbourhood Plan. The process will depend on the degree of change which the modification involves:

- minor (non-material) modifications to a neighbourhood plan or order which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum; or
- material modifications which do not change the nature of the plan or order and which would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan; or
- material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

My understanding from the material that I have read is that the Qualifying Body has intended to make modifications that fall within the second category above. Is that correct? Within the Plan I am told that the 'made' Neighbourhood Plan "is approaching two years old and we have decided to review and update it to:

- Take account of the latest National Planning Policy Framework which was updated on 19 February 2019; and
- Introduce more detailed design guidance."

In fact the Plan is now approaching three years old and, as is acknowledged elsewhere in the Plan, the NPPF was updated again in 2021 and is against that version of the NPPF that I must conduct my Examination.

From a comparison of the Review document and the 'made' Neighbourhood Plan I have identified the following matters – please advise if you identify instances where I have missed other areas of modification.

1. Introduction

I note that, whilst the framework for this section remains unaltered, the content has been amended to explain the 2021 context within which the Plan has been reviewed. Paragraph 1.2 now explains the benefits deriving from the 'made' Plan and the purpose of the Review. The helpful introductory 'pen pictures' remain, unaltered. I note that the base for the Map of the Neighbourhood Area has changed but the boundary is unaltered.

Basic Conditions

I note that this section has been appropriately updated to acknowledge the 2021 revision of the NPPF.

How we have prepared the new Neighbourhood Plan

As noted earlier, paragraph 1.14 will need updating, as will paragraph 1.21. Paragraph 1.23 needs to refer to the Plan being 'made' not "adopted".

Sustainable Development, Key Issues, Implementation

Not materially altered.

2. Rural Character

Policy S1: Countryside

I note that "HBBC supports the proposed modifications which clarify the intentions and application of this policy". I can see that the sentence beginning "In principle" has been slightly amended and two further categories of development that may be considered sustainable in the countryside have been added. The amendments might be construed as a more complete consolidation of higher-level policies as they apply to the countryside, or as a broader encouragement of development that may help to achieve sustainability. The NPPF context is provided by paragraph 174 that says: "Planning policies and decisions should contribute to and enhance the natural and local environment by.... b) recognising the intrinsic character and beauty of the countryside," It would be helpful to know the Qualifying Body's approach to this modification.

Access to the Countryside

Policy S2: Public Rights of Way Network

Unaltered

Important Views

Policy S3: Locally Important Views

I note that whilst the Policy wording is unaltered the accompanying map has been improved by the addition of vectors, although the key rather confusingly says "no directional arrows". The vectors do illustrate that the views 2 & 3 are, in effect, out of the Neighbourhood Area, but that does not warrant a Policy modification.

Renewable Energy

Policy S4: Renewable Energy

Unaltered

Ecology and Biodiversity

Policy S5: Ecology and Biodiversity

I note that the map related to this Policy has been improved through simplification and a reference to Appendix 7 added in paragraph 2.29. These modifications aid the understanding and application of Policy S5.

A representation comments in relation to HBBC's Biodiversity Improvement Area, HBBC Adopted Core Strategy 2009, Western GI Zone, area 7 River Sence Corridor: "I can see no record of this Biodiversity Improvement Area within Sheepy's current NDP. I would like Sheepy Parish Council to reconsider and include the blue wildlife corridor within their Plan and a Community Action to work with Witherley Parish Council to protect the area." And further: "I would like SPC to consider linking with Witherley Parish Council to ascertain if there are similar species present in Manor Farm Meadows, LWS, southern border of Parish and LCC LWS Phase 1 Habitat Survey 11275 neutral grassland, along with surveying the fields/land in between the two sites. All fields border the River Tweed and cover a considerable area. If these fields do have a similar level of biodiversity could these sites/fields be joined and recognised as one larger LWS spanning the Parishes? This may need to be a Community Action within SPC NDP and both Parishes would need to work with LCC Ecologist." These are matters for the Qualifying Body to consider. Acknowledging existing policy commitments applicable to the Neighbourhood Area would not, in my present judgement, amount to a matter necessitating a further round of consultations.

Flooding

Policy S6: Water Management

Apparently encouraged by the consultation response from the Environment Agency, I note that this Policy has been expanded whilst no additional evidence has been provided for the Neighbourhood Area. The requirements regarding the application of the Sequential Test and the Exception Test are set down in the requisite level of detail in the NPPF Section "Planning and Flood Risk". The NPPF further says (paragraph 16) that Plans should "serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)." Whilst I note that the second paragraph is advisory, it suggests that the laying of over 5m² of hard surfacing will always require the application of a SuDS solution, but for householders, for example, the approach would likely be impractical and, in many instances, no planning application would be involved because permitted development rights allow rear gardens to be surfaced and front gardens too, provided a new or replacement driveway of any size uses permeable (or porous) surfacing which allows water to drain through, such as gravel, permeable concrete block paving or porous asphalt, or if the rainwater is directed to a lawn or border to drain naturally. Even if amendments were possible – at some length – it is unclear what the modified version is expecting to gain over the existing version?

3. Heritage and Design

Policy S7: Local Heritage Assets

It is unclear why element (iii) from the Policy has been deleted; the indication from the punctuation is that this is a formatting error as the related maps and Appendix are retained and appear to be unaltered. Clarification invited.

Design

Policy S8: Design

I note that "HBBC is supportive of the modifications to insert Appendix 5 and reword Policy S8 to expect development proposals to respond positively to the character of the area in which it is located. The material in Appendix 5 will help reinforce the application of design policy to ensure that new development is sympathetic and appropriate to its setting." The expanded pre-ambule text is helpful to setting a context for Policy S8. It might also mention the strengthening of the NPPF design content.

The related Appendix 5 is a well presented and illustrated guide, detailed in depth with architectural terms helpfully explained in pictures. However, I understand and support HBBC's concern about the misleading title to the Appendix. The term "Design Code" is defined in the NPPF Glossary and, as I understand it, you accept that your document falls short of: "A set of illustrated design requirements that provide specific, detailed parameters for the physical development of a site or area". In the Policy preamble you say that Appendix 5 provides "design guidance and objectives"; accordingly, that would seem to provide a more appropriate title for the content. Alternatively, since the Policy puts the Appendix within the context of "Respond[ing] positively to the character of the area in which it is located", the local authority suggestion of 'Character Study' may be preferred.

If the guidance is to be trusted and followed then the content must be appropriately worded and be consistent. A local authority concern has yet to be addressed: "Is there inconsistency between objectives on P.86 [I believe this is now page 88] advising against ribbon development and objectives on P.100 preferring development to be "linear" rather than "in depth"? If further housing land has to be found to meet Sheepy Magna's needs, the design advice needs to be clear on this point". On a related matter I believe that design guidance cannot of itself "prevent" (page 88) anything, the more appropriate word probably being 'discourage', nor can it require, as with "must" (page 163), where 'should' is more appropriate. Sometimes the 'objectives' are difficult to interpret in context; on page 94 an objective is to 'protect building line' whilst the picture shows properties immediately off the footpath; on page 95 objectives are both to "retain open frontages" and "encourage hedgerows".

The phrase "Discourage loss of garage space and parking on frontages and verges" is ambiguous: the "loss" can relate to all three elements or just the first. Another phrase used is "Where possible, reinstate front gardens and remove frontage parking". But this is unachievable within the present planning system; should the guide be encouraging householders by illustrated examples rather than potentially misleading as to what is possible? On page 140 there is a typographical error: "look to reflect *tradition* design features of village".

Assuming that the illustration on page 161 was not drawn specially for the Plan, its source needs to be declared.

4. Local Green Spaces

Policy S9: Local Green Spaces

Unaltered.

5. Housing

I note that the pre-amble to this section has been reviewed and altered but the related parts of the Policies have not. The local authority has commented on the updating of the content: “HBBC views the submitted Sheepy Review plan as leaving the substantive housing requirement unaltered from the made plan of 2019, so the inconsistency with the borough’s interim methodology and emerging local plan is not a matter for examination” and “These paragraphs update the housing supply position of Sheepy to 2020, but given that the neighbourhood plan review is not updating the housing requirement these updates are not considered to be of significance”. After reflection I may agree with that position, the draft Local Plan has yet to be examined, but I believe there is a consequence. The Qualifying Body, in their response to the pre-submission consultation, wrote: “The retention of the policy [S14 Hornsey Rise] is important for Sheepy Parish to benefit from the limit[ed] protections offered by National Planning Policy Framework paragraph 14.” However, NPPF paragraph 14 is clear that “the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;” [I have omitted here two further conditions relating to local authority performance].

If the Review does not reassess the “identified housing requirement” – and Planning Guidance says “Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.” (Planning Guidance Paragraph: 040 Reference ID: 41-040-20160211) – then I would assess that the related parts of the Neighbourhood Plan had become part of the Development Plan more that two years ago ie in March 2019. Your comments are invited.

In relation to the amended content, I note in particular from the local authority’s comments: “The pre-submission modifications state that 28 dwellings with planning permission were outstanding at April 2020. This figure is consistent with HBBC data.”

Housing Development

Policy S10: Housing Development

Possibly again through a formatting error, I note that paragraph 5.12 has been truncated and as a consequence omits a reference to Appendix 6.

The local authority has noted: “The only changes to Policy S10 proposed are the addition of parts E and F which provide exception for dwellings outside of settlement boundaries in line with national planning policy on dwellings of exceptional design quality and subdivision of existing dwellings. As such HBBC is supportive of these changes.” I presume that these changes are for clarity and completeness. Since the new elements derive directly from the NPPF, in line with other Policy elements, their origins ought to be declared ie NPPF paragraph 80. As the local authority has noted, it is unclear why element (b) of the NPPF paragraph has been omitted: “the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development

to secure the future of heritage assets". To avoid unnecessary duplication the Policy might make a single reference to the exceptions as set down in paragraph 80?

Policy S11: Neighbourhood Plan Review

I note this inserted Policy but it is not a Policy relating to the use and development of land; it is a forward commitment by the Parish Council, akin to the commitments listed in Appendix 1. Evidently it would be helpful to retain the commitment at the current location but, as noted above, I don't believe that the third sentence is accurate. Immediately the Local Plan is adopted the "the more recent plan policy takes precedence" (Planning Guidance Paragraph: 084 Reference ID: 41-084-20190509). Perhaps paragraph 5.17 and the first two sentences of the Policy box could be merged into a suitably highlighted (not Policy coloured) paragraph?

Meeting Local Housing Needs

Policy S12: Housing Mix

Unaltered.

Affordable Housing

Policy S13: Affordable Housing

Unaltered.

Hornsey Rise Memorial Home

Policy S14: Hornsey Rise Memorial Home

I note that, after initial reservations, the local authority has conceded "As the development at Hornsey Rise is not yet completed it makes sense to retain the policy." My reservations about this approach, and the content of paragraph 5.32, are given above.

6. Services, Facilities and Infrastructure

Policy S15: Community Services and Facilities

Unaltered, although I note that the maps have been improved.

Traffic and Parking

Policy S16: Car Parking and New Housing Development

Unaltered.

Superfast Broadband

Policy S17: Communications Infrastructure

Unaltered.

Employment

Policy S18: Rural Economy

Unaltered.

Appendices

In Appendix 1 a few uncorrected typographical errors have been identified by the local authority. I note that the new Appendix 7 has a source declared. Otherwise, issues relating to Appendices, and Appendix 5 in particular, have been noted above.